

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANTHONY MEDINA,	:	
	:	
Plaintiff,	:	
	:	20-cv-3763 (VSB)
-against-	:	
	:	
CITY OF NEW YORK, et al.,	:	<b><u>ORDER</u></b>
	:	
Defendants.	:	
	:	
-----X		

VERNON S. BRODERICK, United States District Judge:

I am in receipt of a letter dated June 27, 2023 and exhibits annexed thereto which Plaintiff mailed to my chambers. I have attached this letter and its exhibits<sup>1</sup> as Exhibit 1 to this Order. In the letter, Plaintiff “seeks that this case be placed in abeyance, or that Defendants’ dispositive motions not be ruled on, an/or that the Court appoint counsel to represent Plaintiff.” Plaintiff then proceeds to describe the same circumstances that he raised in his letter dated January 10, 2022, when he sought and was granted an extension of time to oppose Defendants’ motions to dismiss. (Doc. 128.) In my Order responding to the January 10 letter, I explained that “I have great sympathy for Plaintiff’s situation, but I have a responsibility to ensure the swift administration of justice” and would not be granting further extension requests, “barring extraordinary circumstances.” (Doc. 129.) Because Plaintiff has not raised circumstances beyond those which I have already considered when granting an extension of time, his request to hold the case in abeyance is DENIED.

<sup>1</sup> The exhibits attached to Plaintiff’s letter have been redacted to remove personal identifying information and medical records. An unredacted version of the letter and exhibits will be filed under seal.

With regard to Plaintiff's request for the appointment of counsel, in determining whether to grant an application for counsel, a court must consider "the merits of plaintiff's case, the plaintiff's ability to pay for private counsel, his efforts to obtain a lawyer, the availability of counsel, and the plaintiff's ability to gather the facts and deal with the issues if unassisted by counsel." *Quadir v. New York State Dep't of Lab.*, 39 F. Supp. 3d 528, 543 (S.D.N.Y. 2014) (quoting *Cooper v. A. Sargenti Co., Inc.*, 877 F.2d 170, 172 (2d Cir. 1989) (per curiam)).


Without expressing a view concerning the merits of Plaintiff's claim, Plaintiff's request for pro bono counsel is denied without prejudice because it is too early in the proceedings for the Court to assess the merits of the action. *See Quadir*, 39 F. Supp. 3d at 543 (denying request for appointment of counsel because it was "too early to adequately weigh the merits" of the case at the motion to dismiss stage). If this case survives Defendants' motion to dismiss, Plaintiff may renew his application for appointment of counsel.

Defendants' motions to dismiss are fully briefed and a decision will be forthcoming.

The Clerk is respectfully directed to mail a copy of this order to the pro se Plaintiff.

SO ORDERED.

Dated: July 18, 2023  
New York, New York

  
Vernon S. Broderick  
United States District Judge

# **EXHIBIT 1**

June 27, 2023

Honorable Vernon S. Broderick  
United States District Judge  
United States District Court  
500 Pearl Street  
New York, New York 10007

RE: Medina v. NYS Division of Parole, et. al.(VSB)  
Case No. 20-Civ-3763

Honorable Broderick:

Please accept this letter as a formal motion due to my lack of knowledge of the law and proper formality. My name is Cynthia Ortiz and I am the Home Aide for Anthony Medina and am writing on behalf of my client, Mr. Medina, the *pro se* Plaintiff in this action.<sup>1</sup>

The instant application seeks that this case be placed in abeyance, or that Defendants' dispositive motions not be ruled on, and/or that the Court appoint counsel to represent Plaintiff Anthony Medina for the following reasons.

As this Court is aware, Plaintiff Media is legally blind and relies on a CCTV magnification device to read. See Medina v. Buther, 2017 U.S. Dist. LEXIS25674 \*3,17 (SDNY Feb. 3, 2017). **(Also see annexed exhibit A)**. On or about May 9, 2021, Plaintiff Medina was struck by a car and his right wrist/hand was broken. Mr. Medina's CCTV reading device, which he had on his person, was also broken

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<sup>1</sup> Plaintiff Medina is telling me what to write fir the instant letter/motion.

beyond use during the accident. Mr. Medina does not have the funds to purchase another reading device. In lieu of his CCTV reading device, Mr. Medina was attending the Andrew Heiskell Braille and Talking Book Library for the Blind (**see annexed Exhibit B**) located at 40 West 20th Street, New York, New York to use the visually impaired devices, computers and other accommodating equipment thereat to read and author case-related documents, namely opposition papers to the Defendants' motions to dismiss. However, Mr. Medina has not been able to attend said library in the last 30 months or so because of the covid pandemic and because he has been off-and-on relying on a wheelchair to travel. Mr. Medina presently has a broken left ankle that requires further reconstructive surgery and he is confined to a wheelchair (**see annexed exhibit C**). Mr. Medina now relies on home care for daily living. Mr. Medina resides in the Bronx and the Heiskell Library is in lower Manhattan, far from Mr. Medina's residence. Also relevant is that even if Mr. Medina was able to travel, there is not a wheelchair accessible train station near his residence. Your Honor, without daily access to the Heiskell Library Mr. Medina is unable to read and submit a response to the Defendants' motions to dismiss.

Compounding Mr. Medina's inability to access accommodations to read and self-author documents, which prevents him from prosecuting his claims, is Mr. Medina suffers from bilateral neuropathy in his arms and hands. (**see annexed exhibit D**). Mr. Medina's lack of tactile sensation in his hands and fingers makes it almost impossible for Mr. Medina to grasp or manually use written instruments such as a pen or computer keyboard.<sup>2</sup> Furthermore, due to a broken right wrist and arthritis, and mostly due to the recurring nerve damage in Mr. Medina's arms

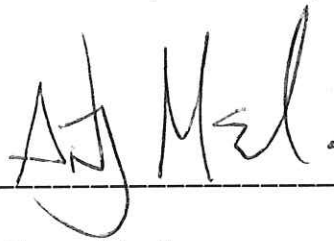
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<sup>2</sup> Mr. Medina's also makes it impossible for him to use a regular computer keyboard.

and hands, his doctors directed him not to use his hands, as further use will make his symptoms worse. **See annexed exhibit E.**

Your Honor, based on reasons set forth above, Plaintiff Medina requests that the Court not rule on the defendants' motions to dismiss and that the Court appoint counsel to represent him in this civil action in the interest of fairness and equity.

Cordially submitted,

A handwritten signature in black ink, appearing to read 'Anthony Medina', is written over a horizontal dashed line.

Anthony Medina, pro se  
By, Cynthia L. Ortiz, Home Aide  
3073 Buhre Avenue, Apt. 6H  
Bronx, New York 10461

Athonymedina1978@gmail.com  
(929)26-9811

EXHIBIT A





## Commission for the Blind

ANDREW M. CUOMO  
Governor

SHEILA J. POOLE  
Commissioner

### Verification of Legal Blindness

Name:
Mr. Anthony Medina
Address:
127 West 25th Street 6th floor New York, New York 10001

NYSCB Registration No. CF# 168546
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The above named person is registered as legally blind with the Commission for the Blind in accordance with New York State law, Section 3704.

Signature:	<i>Nathaniel Beyer</i>
Title:	Assistant Commissioner
Date:	11/04/2019



EXHIBIT B



New York  
Public  
Library

## Andrew Heiskell Braille and Talking Book Library

40 West 20th Street, New York, NY 10011  
Phone: 212-206-5400 or toll-free 855-697-6975  
Fax: 212-206-5418  
Web: [nypl.org/talkingbooks](http://nypl.org/talkingbooks)  
E-mail: [talkingbooks@nypl.org](mailto:talkingbooks@nypl.org)

### Application for Free Library Service for Individuals

First Name: Anthony Middle Initial: \_\_\_\_\_

Last Name: Medina

Date of birth: [REDACTED] 78 Gender: Male

Street address: 127 W 25th St. Rm. 6-49

City: New York Zip: 10001-7207

County: \_\_\_\_\_

Home phone: \_\_\_\_\_ Cell phone: 917 808-8507

E-mail: Anthony Medina 1978 @ gmail.com

Email me a username/password for the online catalog.

Name of local public library or branch: \_\_\_\_\_

How did you hear about us? \_\_\_\_\_

Please give the name of a person to contact if we cannot reach you:

Name: Waleska Medina-Marquez Relationship: wife

Phone: 773-939-2771 E-mail: \_\_\_\_\_

By law, preference in lending books and equipment is given to veterans.  
Please check this box if you have been honorably discharged from the  
armed forces of the United States.

EXHIBIT C

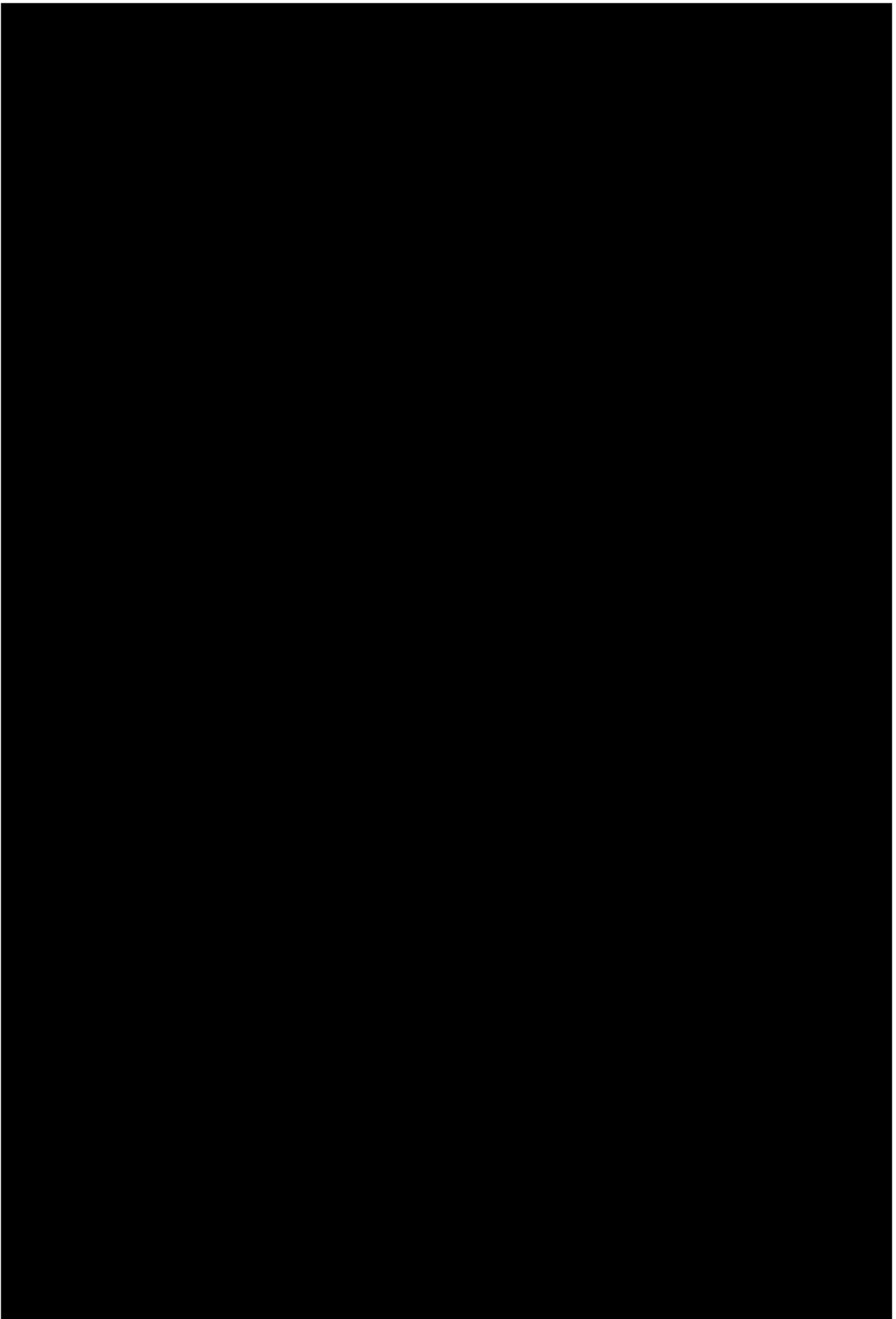




EXHIBIT D

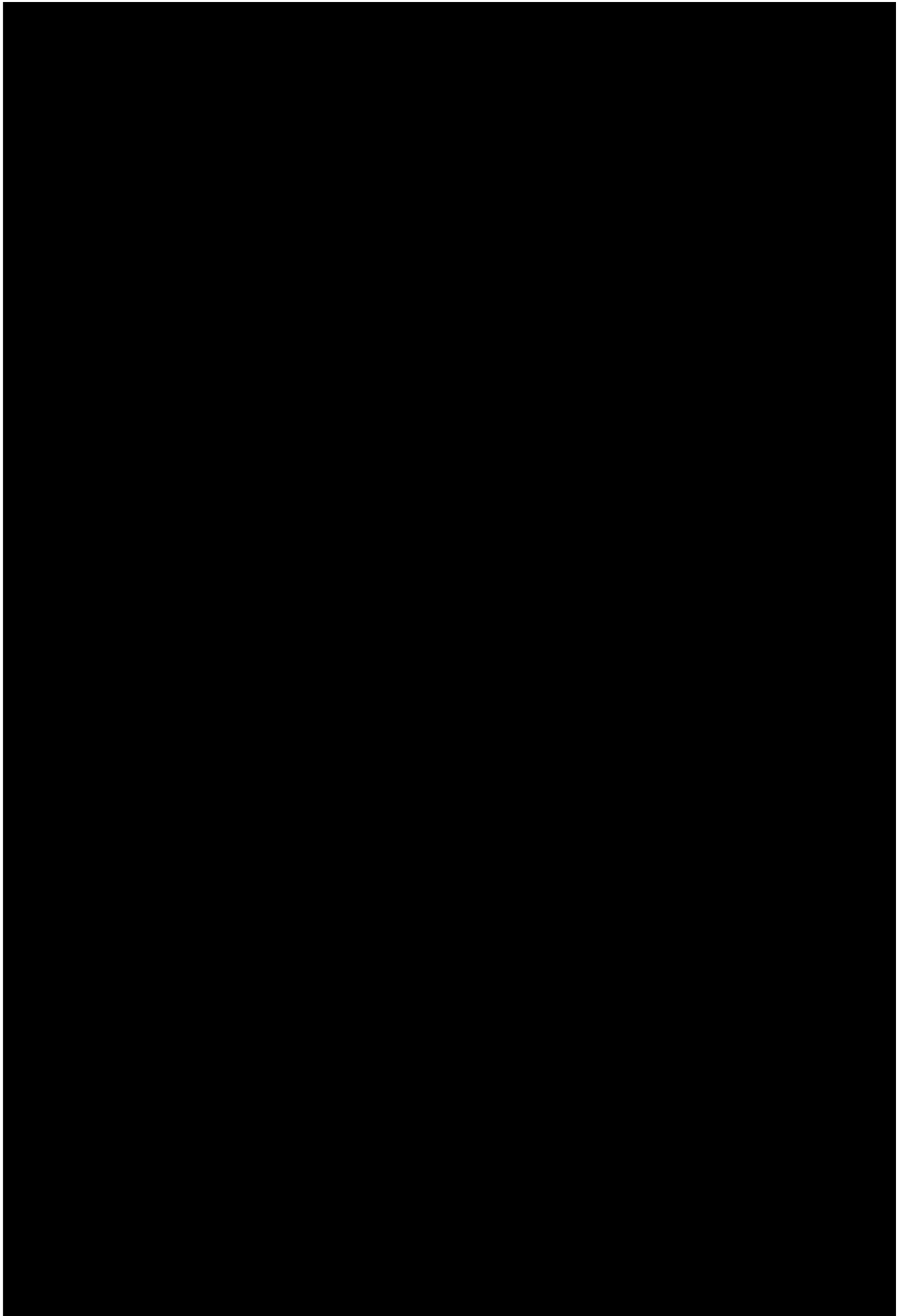




EXHIBIT E

